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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/589,906

Applicant(s)

BECKMANN ET AL.

Examiner

Michael Mapa

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-23, 25 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-23, 25 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The applicant has amended the following:

Claims: 14-23 have not been amended.

Claims: 25-26 have been added.

Claims: 1-13 & 24 have been cancelled.

Response to Arguments

2. Applicant's arguments filed 02/16/10 have been fully considered but they are not persuasive.

The applicant argues features wherein a method and system for controlling and evaluating message traffic of a communication unit, which comprises the steps of: transmitting all messages of the message traffic via a first network unit within a mobile radio system, the first network unit deciding, with an aid of at least one item of useful information of the communication unit, whether one or more of the messages are to be forwarded to a second network unit for further processing or are to be blocked; determining via the first network unit with the aid of at least one item of the useful information of the communication unit, whether a particular message of the message traffic is to be logged in a logfile by the first network unit; assigning a specific set of the useful information in each case to a user identity with the specific set of the useful

information being used to control and evaluate at least one message of the message traffic of the communication unit; and allocating the user identity to an application of the communication unit.

3. Before addressing the applicant's arguments, the examiner would like to clarify the position taken with respect to the applied art:

Wang (US Patent Publication 2004/0203589) discloses a method and system for controlling messages in a communication network wherein Wang discloses processing the messages based on the identity of the sender and the receiver specified criteria wherein a message is designated as rejected, trusted or untrusted by applying the criteria and category indicator to the identity of the sender of the message and disposing of a rejected message, annotating an accepted message as trusted or untrusted and forwarding the accepted message for delivery to the receiver. Wang discloses having a message control system (MCS) receiving all the messages and processing the messages depending on whether to forward the message to the message server where the recipient can then receive the message or block and reject the message depending on the criteria and category indicator applied. Wang further discloses the criteria to include a whitelist signifying that the sender is trusted and the message to be forwarded to the message server or a blacklist signifying that the message is from an unwanted sender and the message is to be rejected and blocked wherein post processing is done such as logging, pattern analysis, etc. on the rejected

message. Wang continues to disclose that each criterion such as whitelist/blacklist is subscriber/receiver specific wherein the subscriber/receiver is able to modify the list accordingly.

With regards to the applicant's arguments that the claimed invention is contrary to the teachings of Wang because the claimed invention "relates to controlling and evaluating message traffic of a communication unit". The examiner respectfully disagrees. Wang discloses having a message control system (MCS) which processes and evaluates all incoming traffic depending on the criterion set forth by the subscriber/receiver and would then either forward the message to the message server to be received by the recipient or block and reject the incoming message and perform post-processing on the blocked message such as logging the message. Therefore, the MCS evaluates and controls the message traffic of the communication unit depending on the subscriber/recipient specific criterion set up.

With regards to the applicant's arguments that the claimed invention is contrary to the teachings of Wang because the claimed invention "includes a step of assigning a specific set of the useful information in each case to a user identity, with the specific set of the useful information being used to control and evaluate at least one message of the message traffic of the communication unit". The examiner respectfully disagrees. Wang teaches the MCS having subscriber/recipient specific criterion on how to evaluate and process the incoming message. Wang discloses the subscriber/recipient criterion to include a whitelist/blacklist (specific set of useful information) which is used to evaluate each message to either forward the message to the server or block and reject

the message, and wherein Wang continues to disclose that each whitelist/blacklist can be modified by the subscriber/recipient, therefore the whitelist/blacklist is assigned specifically for that subscriber/recipient (user identity).

With regards to the applicant's arguments that the claimed invention is contrary to the teachings of Wang because the claimed invention relates to "an evaluation of useful information of the communication unit that is transmitted to the first network unit within a mobile radio network" and "said processing unit further deciding whether at least one of the messages of the message traffic can, on a basis of at least one item of useful information of the communication unit, be logged by the first network unit in a logfile". The examiner respectfully disagrees. As was mentioned in the explanations provided above, Wang discloses a mobile radio network having an MCS which receives all the messages to be sent to the subscriber/recipient and wherein the MCS evaluates and controls the processing of the messages based on subscriber specified criterion such as blacklist/whitelist (useful information of the communication unit). Wang discloses forwarding the messages that are on the whitelist to the message server (second network unit) or blocking and rejecting the message if found to be on the blacklist, wherein the system performs post-processing on the blocked and rejected message such as logging, pattern analysis, etc.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "a second network unit NE2 is part of another part PN of the mobile radio system" and that "the first network unit is not a special MCS for filtering SMS or MMS messages,

but rather represents Gateway which were provided for routing messages and converting the signaling procedure for other parts of the radio system") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claimed limitation states "a first network unit" and "a second network unit". One of ordinary skill in the art would recognize that a network unit is any device/unit that is part of and within a network. Wang discloses the MCS and the message server to be part of and within the network, therefore the MCS (first network unit) and the message server (second network unit) reads on the claimed limitation.

With regards to the applicant's arguments that one of ordinary skill in the art would not have been motivated by Wang to obtain the claimed invention because "the solution in Wang is related to filter SMS or MMS messages" and the invention is related "to evaluate and control the message traffic of a communication unit by means of a first network unit within a mobile radio network, wherein the criteria's for filtering the SMS or MMS and the evaluation and controlling of messages by the first network unit are very different". The examiner respectfully disagrees. Wang discloses the claimed invention as can be seen in the explanations provided above and within this office action.

With regards to the applicant's arguments that Wang does not teach "that the useful information relates to a destination address" and that Wang teaches "that the so-called useful information relates to the identity of the sender". The examiner respectfully disagrees. Wang discloses the each criterion (whitelist/blacklist) is

subscriber specific and wherein the subscriber is able to modify the information on the whitelist/blacklist, therefore the whitelist/blacklist is related not only to the identity of the sender but to the destination address of the subscriber as well. In addition, Wang discloses that the messages found to be on the whitelist are to be sent to the message server where the subscriber can receive the message (a positive destination addresses that are addressable for the communication unit) or rejected and blocked if the messages are found to be on the blacklist where post processing is done such as logging (negative destination addresses that are not addressable for the communication unit and destination addresses that are to be logged by the first network unit), therefore the whitelist/blacklist includes a destination address on how to process the messages such as by sending the message to the destination address of the message server if found on the whitelist where the subscriber can access the message.

4. Therefore, the argued limitations read upon the cited references or are written broad such that they read upon the cited references, as follows:

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 14-18, 20, 22-23 and 25-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al. (US Patent Publication 2004/0203589 herein after referenced as Wang).

Regarding claim 14, Wang discloses:

The applicant claims "A method for controlling and evaluating message traffic of a communication unit" (Fig. 1 & Paragraph [0007] of Wang).

The applicant claims "which comprises the steps of: transmitting all messages of the message traffic via a first network unit within a mobile radio system" (Fig. 1 & Paragraph [0015] of Wang, wherein Wang discloses a message control system (MCS) receiving and processing messages).

The applicant claims "the first network unit deciding, with an aid of at least one item of useful information of the communication unit, whether one or more of the messages are to be forwarded to a second network unit for further processing, or are to be blocked" (Fig. 3 & Paragraphs [0026]-[0028] of Wang, wherein Wang discloses the MCS deciding if the message received should be passed on as a processed message or passed on as a rejected message depending on whether the authentication certificate (AC) of the message is with the white list or the black list and wherein the subscriber/list owner is able to add/modify/delete the identifiers within the lists).

The applicant claims "determining, via the first network unit with the aid of at least one item of the useful information of the communication unit, whether a particular message of the message traffic is to be logged in a logfile by the first network unit" (Fig. 3 & Paragraphs [0026] & [0032] of Wang, wherein Wang discloses sending the rejected message to a message receptacle postprocessing such as logging, pattern analysis, etc. therefore logging in a logfile).

The applicant claims "assigning a specific set of the useful information in each case to a user identity, with the specific set of the useful information being used to control and evaluate at least one message of the message traffic of the communication unit and allocating the user identity to an application of the communication unit" (Fig. 3 & Paragraphs [0026]-[0028] & [0032] of Wang, wherein Wang discloses having a whitelist and blacklist associated to a subscriber wherein the subscriber can add/delete/modify the subscriber lists and wherein the MCS uses the subscriber list to determine whether to process or reject the message).

Regarding claim 15, Wang discloses:

The applicant claims "The method according to claim 14, which further comprises calling up the at least one item of the useful information that determines the controlling and evaluation of the at least one message of the message traffic of the communication unit from a database" (Fig. 3 & Paragraphs [0026]-[0028] of Wang, wherein Wang discloses the MCS determining the processing/rejection based on the white/black list which are taken from a white/black list repository, therefore a database).

Regarding claim 16, Wang discloses:

The applicant claims "The method according to claim 14, which further comprises inserting at least one filter instruction into the at least one item of the useful information and selecting the filter instruction from the group consisting of: one or more positive destination addresses that are addressable for the communication unit; one or more negative destination addresses that are not addressable for the communication unit; and one or more destination addresses that are to be logged by the first network unit" (Fig. 3 & Paragraphs [0026]-[0028] & [0032] of Wang).

Regarding claim 17, Wang discloses:

The applicant claims "The method according to claim 14, which further comprises identifying the messages of the traffic message to be logged with an acquisition identity" (Paragraph [0032] of Wang, wherein Wang discloses forwarding the message to a message receptacle for post processing such as logging and pattern analysis).

Regarding claim 18, Wang discloses:

The applicant claims "The method according to claim 14, which further comprises forwarding the logfile via the first network unit using a logging message to an evaluation unit for evaluation" (Paragraph [0032] of Wang, wherein Wang discloses forwarding the message to a message receptacle for post processing such as logging and pattern analysis).

Regarding claim 20, Wang discloses:

The applicant claims "The method according to claim 14, which further comprises: authorizing the communication unit to exchange messages; and using at least one key pair to provide a protected message traffic" (Paragraphs [0018]-

[0022] of Wang, wherein Wang discloses using an authentication certificate (AC) that provide for secure and unique identification of the certificate holder and wherein the network generates and is issued to each subscriber of the network and for each application).

Regarding claim 22, Wang discloses:

The applicant claims "The method according to claim 14, which further comprises forming the first network unit as a group of network elements" (Fig. 1 & 2 of Wang).

Regarding claim 23, Wang discloses:

The applicant claims "A first network unit for controlling and evaluating message traffic of a communication unit within a mobile radio system" (Fig. 1 & Paragraphs [0007] & [0015] of Wang, wherein Wang discloses a message control system (MCS)).

The applicant claims "the first network unit comprising: a receiving unit for receiving all messages of the message traffic of the communication unit; a transmitting unit for transmitting the messages of the message traffic; and a processing unit for deciding whether at least one of the messages of the message traffic can, on a basis of at least one item of useful information of the communication unit, be forwarded to a second network unit for further processing or can be blocked" (Fig. 3 & Paragraphs [0026]-[0028] of Wang, wherein Wang discloses the MCS deciding if the message received should be passed on as a processed message or passed on as a rejected message depending on whether the authentication certificate (AC) of the message is with the white list or the black list and wherein the subscriber/list owner is able to add/modify/delete the identifiers within the lists).

The applicant claims "said processing unit further deciding whether at least one of the messages of the message traffic can, on a basis of at least one item of the useful information of the communication unit, be logged by the first network unit in a logfile" (Fig. 3 & Paragraphs [0026] & [0032] of Wang, wherein Wang discloses sending the rejected message to a message receptacle postprocessing such as logging, pattern analysis, etc. therefore logging in a logfile).

The applicant claims "with a specific set of the useful information being assigned to a user identity in each case, with the specific set of useful information being used to control and evaluate at least one of the messages of the message traffic of the communication unit, and with the user identity being allocated to an application of the communication unit" (Fig. 3 & Paragraphs [0026]-[0028] & [0032] of Wang, wherein Wang discloses having a whitelist and blacklist associated to a subscriber wherein the subscriber can add/delete/modify the subscriber lists and wherein the MCS uses the subscriber list to determine whether to process or reject the message).

Regarding claim 25, Wang discloses:

The applicant claims "The first network unit according to claim 23, wherein the useful information includes a destination address" (Fig. 3 & Paragraphs [0026]-[0028] & [0032] of Wang).

Regarding claim 26, Wang discloses:

The applicant claims "The method according to claim 14, wherein the useful information includes a destination address" (Fig. 3 & Paragraphs [0026]-[0028] & [0032] of Wang).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US Patent Publication 2004/0203589 herein after referenced as Wang) in view of Bandini et al. (US Patent Publication 2002/0199095 herein after referenced as Bandini).

Regarding claim 19, Wang discloses:

The applicant claims "The method according to claim 18, which further comprise evaluating the messages logged in the logfile via the evaluation unit using at least one criteria" (Paragraph [0032] of Wang, wherein Wang discloses pattern analysis).

Wang fails to explicitly recite "using at least one criteria selected from the group consisting of: useful data of the message; destination address of the message; number of accesses to the destination address; data quantity; the messages that were sent with a specific user identity; the messages that were sent with a specific acquisition identity; and correlation of messages with signaling information and/or the useful data."

In a related field of endeavor, Bandini discloses:

The applicant claims " using at least one criteria selected from the group consisting of: useful data of the message; destination address of the message; number

of accesses to the destination address; data quantity; the messages that were sent with a specific user identity; the messages that were sent with a specific acquisition identity; and correlation of messages with signaling information and/or the useful data" (Paragraph [0026]-[0027] of Bandini).

Therefore it would have been obvious to one of ordinary skill in the art to modify the invention of Wang to incorporate the teachings of Bandini for the purpose of improving the network by performing a more accurate pattern analysis and thereby presenting a more accurate and detailed information to the subscriber of the nature of the messages being sent to said subscriber.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (US Patent Publication 2004/0203589 herein after referenced as Wang) in view of Patil et al. (US Patent Publication 2004/0203432 herein after referenced as Patil).

Regarding claim 21, Wang discloses "The method according to claim 14." Wang fails to explicitly recite "which further comprises using the method in an architecture in accordance with an IP multimedia subsystem with an aid of a session initiation protocol."

In a related field of endeavor, Patil discloses:

The applicant claims "which further comprises using the method in an architecture in accordance with an IP multimedia subsystem with an aid of a session initiation protocol" (Paragraph [0003] of Patil).

Therefore it would have been obvious to one of ordinary skill in the art to modify the invention of Wang to incorporate the teachings of Patil for the purpose of improving the system marketability and versatility by providing a system that is capable of conforming to known systems and protocols.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Mapa whose telephone number is (571)270-5540. The examiner can normally be reached on **MONDAY TO THURSDAY 8:00AM - 5:00PM**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571)272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dwayne D. Bost/
Supervisory Patent Examiner,
Art Unit 2617

/Michael Mapa/
Examiner, Art Unit 2617